

## MEMORANDUM OF LAW

DATE: April 13, 1994

TO: Jack McGrory, City Manager

FROM: City Attorney

SUBJECT: Retiree Health Insurance Trust Fund

You have advised us that you have stopped contributing additional moneys to the Retiree Health Insurance Trust Fund ("Trust Fund") as of March, 1994, and you have asked what procedures are necessary to implement your plan not to put any additional funds in that Trust Fund in FY 1994-95.

You stated that the Trust Fund contained \$19,278,117 as of March 25, 1994, far more than enough to pay all retiree health insurance premiums for the rest of FY 1993-94 and all of FY 1994-95.

Your confirmation of that amount in the City-sponsored Retiree Health Insurance Trust Fund is all that needs to be done from an actuarial or accounting standpoint. There is nothing further that needs to be done by the Retirement System's actuary.

The Retirement System Board of Administration needs to approve the City's contribution rate for FY 1994-95, pursuant to San Diego Municipal Code ("SDMC") sections 24.0801 and 24.0803.

The actuary has already provided the suggested contribution rate to the Board of Administration. The contribution rate for the normal costs of the Retirement System has been published. For the past few years, the Board of Administration has divided the normal costs of the Retirement System, alone, into a percentage to be funded directly, and a percentage to be funded from excess earnings. This bifurcation appears legally permissible, because under SDMC section 24.0907.1, all surplus undistributed earnings are credited annually to the reserve for employer contributions, for the sole and exclusive purpose of reducing retirement system liability.

Of course, if there are not enough surplus undistributed earnings, then the Retirement System has recourse against the City to obtain that cash from the City, at the end of the fiscal year.

We will advise the Board of Administration that in FY

1994-95, the City will not be making any additional contributions to the Retiree Health Insurance Trust Fund. As these contributions have in the past been in addition to the normal cost of the Retirement System, the change in funding of the Retirees' Health Insurance Trust Fund will have no direct impact on the total Retirement System contribution rate already recommended by the System's actuary.

It will be up to the Board of Administration to decide if they wish to continue dividing the City's contribution rate between an amount funded directly and an amount from surplus undistributed earnings.

JOHN W. WITT, City Attorney

By

Meagan J. Beale

Deputy City Attorney

MJB:mrh:352(x043.2)

ML-94-36

TOP

TOP